

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Sutton-Rainey, Kim

Attorney Docket No. RAIN-1-1005

Serial No.: 10/680,737

Group Art Unit: 3728

Filing Date: October 7, 2003

Examiner: Gehman, Bryon P.

Title: MULTI-USE CARRIERS

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

TO THE COMMISSIONER OF PATENTS:

This petition is responsive to the Notice of Abandonment mailed September 30, 2005.

Reasons for contending withdrawal of abandonment begin in Remarks on page 2.

Copies of evidence supporting reasons for withdrawal of abandonment holding are attached to this petition.

A replacement Response is also attached to this petition.

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REMARKS

In an Office Communication dated September 30, 2005, A Notice of Abandonment cited that the instant application serial number 10/680,737 is abandoned for applicant's alleged failure to timely file a proper reply to the Office letter mailed on February 17, 2005 and that no reply has been received.

In a telephonic conversation with Mark Byrne on October 11, 2005, and in an earlier voicemail left by Mark Byrne on October 6, 2005, it was explained to Examiner Bryon Gehman that our files show that a Response to the February 17, 2005 Office letter was mailed on July 14, 2005, and subsequently received by the Office, as evidenced by the Applicant's file having the original Return Receipt Postcard stamped with an OIPE marking "Jul 18 2005" affixed upon it. In the conversation, Examiner Gehman instructed Applicant to send in a copy of the OIPE-stamped postcard as part of the petition, along with a copy of the filed Response. At this time Examiner Gehman was at a loss to explain why the Office-received Response wasn't in his 10/680,737 file even though the OIPE-stamped card was sent from the Office to the Applicant.

After the conversation concluded, Applicant further investigated the Applicant's file as will be discussed below. Results of the investigation might help explain why the filed Response did not reach the Examiner's file.

The Response included a Fee Transmittal form authorizing the Office to "...charge any additional fee(s) or underpayment of fees...", a Transmittal form that itemized the Response enclosures that included a (postage stamped) Return Receipt Postcard, and the Return Receipt Postcard. The post card itemized the enclosures (Transmittal Letter, Fee Transmittal Letter, Response to Office Action dated 2/17/05, and Return Receipt Postcard).

In accord with Examiner Gehman's request, the Office is kindly directed to the following attachments to serve as evidence that a Response was timely filed and received by the Office:


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1. Copy of OIPE-stamped Return Receipt Postcard. On this card includes our correct Attorney Docket number RAIN-1-1005 and the correct patent application serial No. 10/680,737.
2. Copy of Response to Office Action having correct RAIN-1-1005 docket number and *incorrect* patent application serial number 10/687,737.
3. Copy of Fee Transmittal form with correct docket number and incorrect serial number; and
4. Copy of Transmittal form having correct docket number and incorrect serial number.

It might be that the Office-received Response did not make it into Examiner Gehman's 10/680,737 file in part because items 2-3 above were labeled with the wrong 10/687,737 application number. That is, a typographical error of a single digit may have contributed to the Response not making it into the Examiner's file 10/680,737 file, but instead to an application file numbered 10/687,737, should this file exist at the Office.

Nevertheless, because the Response was filed timely, an authorization was given to charge any necessary fees, and the returned OIPE-stamped post card did have the correct 10/680,737 application serial number, the application was not in fact abandoned. Accordingly, the Office is urged to grant a withdrawal of abandonment holding.

If the Office disagrees with the Applicant's position for the petition to withdraw a holding of abandonment, in the alternative, pursuant to 37 CFR 1.137(a), Applicant earnestly petitions the Office to consider this petition to serve as *A Petition For Revival Of An Application For Patent Abandoned Unavoidably* on the grounds that a typographical error constitutes "...unforeseen...imperfection..." and meets the unavoidable delay criteria discussed further in MPEP 711.03(c).

If the Office so decides to consider this petition as a petition for reviving an unavoidably abandoned patent application, the Office is directed to consider the following replacement

Response that is the same as the enclosed copy previously timely sent but is now labeled with the correct 10/680,737 application serial number. The replacement Response includes

5. Response to Office Action having correct RAIN-1-1005 docket number and *correct* patent application serial number 10/680,737;
6. Fee Transmittal form with correct docket number, correct serial number, and authorization to charge fees;
7. Transmittal form having correct docket number and correct serial number; and
8. Return Receipt Postcard having correct docket number and correct patent application serial No. 10/680,737.


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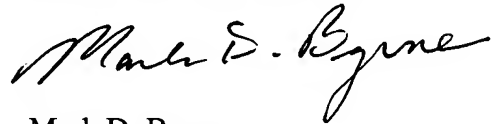
CONCLUSION

Applicants respectfully petition the Office for a withdrawal of abandonment, or alternatively, petitions the Office for a finding of revival of an unavoidably abandoned patent application. Thereafter, the Office is urged to proceed to examination of the enclosed Response.

If the Examiner has any questions regarding this application, the Examiner is invited to contact the Applicant's agent listed below.

Respectfully submitted,

BLACK LOWE & GRAHAM^{PLLC}



Mark D. Byrne
Registration No. 50,125
Direct Dial: 206.957.2481

MAIL CERTIFICATE

I hereby certify that this communication is being deposited with the United States Postal Service via first class mail under 37 C.F.R. § 1.08 on the date indicated below addressed to: MAIL STOP PETITIONS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

October 12, 2005
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Wendy Saxby
Wendy Saxby


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COPY

Attorney Docket: RAIN-1-1005
Filed by: DY/ws
Date Mailed: July 14, 2005
Applicant: Sutton-Rainey, Kim
Re: Response to Office Action
Serial No.: 10/680,737
Date Filed: October 7, 2003
Title: MULTI-USE CARRIER

- Transmittal Letter;
- Fee Transmittal Letter;
- Response to Office Action Dated 2/17/05; and
- Return Receipt Postcard

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Serial No.: 10/680,737

Group Art Unit: 3728

Filing Date: October 7, 2003

Examiner: Gehman, Bryon P.

Title: MULTI-USE CARRIERS

REPLACEMENT RESPONSE TO OFFICE ACTION

TO THE COMMISSIONER OF PATENTS:

Amendments to the claims begin on page 2.

Remarks begin on page 7.

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AMENDMENTS TO THE CLAIMS:

1. (Currently Amended) A multi-use carrier comprising:

a single die-cut sheet made of a flexible material having a first plurality of crease lines, a second plurality of crease lines, a handle cutout, a plurality of slots, a plurality of tabs, and a plurality of vessel apertures,

whereby a first pivoting action applied to the first ~~set~~ plurality of crease lines substantially erects the single die sheet to an expanded carrier having the handle cutout define a handle and the plurality of vessel apertures disposed along the perimeter of the carrier, and a second pivoting action applied to the second ~~set~~ plurality of crease lines engages the ~~first~~ plurality of tabs with the ~~first~~ plurality of slots to form a central chamber that is spanned by the handle and is surrounded by the plurality of vessel apertures.
2. (Original) The multi-use carrier of Claim 1, wherein the plurality of apertures includes apertures having shapes that are substantially circular, oval, square, diamond, and X patterned.
3. (Currently Amended) The ~~apertures~~ multi-use carrier of Claim 2 wherein ~~each aperture of the plurality of apertures is a set of apertures~~ the plurality of apertures further includes groups of aperture shapes.
4. (Currently Amended) The multi-U[u]se carrier of Claim 1, wherein the flexible material includes paper-based materials, plastic-based materials, and hybrid plastic and paper-based materials.
5. (Currently Amended) The ~~flexible material~~ multi-use carrier of Claim 4, wherein the paper-based products include corrugated cardboard, the corrugated cardboard further including fluting grades A, B, C, E, F, and micro-fluting.

6. (Original) The multi-use carrier of Claim 1, wherein the handle has surfaces for receiving a plurality of printed messages and images concerning food, beverage, gardening, janitorial, construction, microbiological, chemical, nuclear, business coupons, and recreational board game subject matters.

7. (Currently Amended) The multi-use carrier of Claim 1, wherein the chamber includes a plurality of external walls ~~has~~ having surfaces for receiving a plurality of printed messages and images concerning food, beverage, gardening, janitorial, construction, microbiological, chemical, nuclear, business coupons, and recreational board game subject matters.

8. (Currently Amended) The multi-use carrier of Claim 1, wherein the chamber includes a plurality of internal walls ~~has~~ having surfaces for receiving a plurality of printed messages and images concerning food, beverage, gardening, janitorial, construction, microbiological, chemical, nuclear, business coupons, and recreational board game subject matters.

9. (Original) The multi-use carrier of Claim 1, wherein the expanded carrier includes a bottom having a surface for receiving a plurality of printed messages and images concerning food, beverage, gardening, janitorial, construction, microbiological, chemical, nuclear, business coupons, and recreational board game subject matters.

10. (Currently Amended) A single die sheet expandable into a multi-use carrier comprising:

a sheet of flexible material having a first plurality of crease lines, a second plurality of crease lines, a handle cutout, a plurality of slots, a plurality of tabs, and a plurality of vessel apertures,

whereby a first pivoting action applied to the ~~first~~ plurality set of crease lines substantially erects the single die sheet to an expanded carrier having the handle cutout define a

handle and the plurality of vessel apertures disposed along the perimeter of the carrier, and a second pivoting action applied to the second ~~set~~ plurality of crease lines engages the ~~first~~ plurality of tabs with the ~~first~~ plurality of slots to form a central chamber that is spanned by the handle and is surrounded by the plurality of vessel apertures.

11. (Original) The single die sheet of Claim 10, wherein the plurality of apertures includes apertures having shapes that are substantially circular, oval, square, diamond, and X patterned.

12. (Currently Amended) The single die sheet of Claim 11, wherein ~~each aperture of the plurality of apertures is a set of apertures~~ the plurality of apertures further includes groups of aperture shapes.

13. (Original) The single die sheet of Claim 10, wherein the flexible material includes corrugated cardboard selected from group consisting of fluting grades A, B, C, E, F, and micro-fluting.

14. (Original) The single die sheet of Claim 10, wherein the handle has surfaces for receiving a plurality of printed messages and images concerning food, beverage, gardening, janitorial, construction, microbiological, chemical, nuclear, business coupons, and recreational board game subject matters.

15. (Original) The single die sheet of Claim 10, wherein the plurality of external walls has surfaces for receiving a plurality of printed messages and images concerning food, beverage, gardening, janitorial, construction, microbiological, chemical, nuclear, business coupons, and recreational board game subject matters.

16. (Original) The single die sheet of Claim 10, wherein the expanded carrier is approximately 11 $\frac{1}{8}$ inches long, 7 $\frac{1}{2}$ inches wide, approximately 2 $\frac{1}{8}$ inches high as determined by the height of the external walls of the chamber, and includes the central chamber having a

length of approximately $7\frac{1}{8}$ inches, a width of approximately $3\frac{1}{8}$ inches, and a height of approximately 2 inches as determined by the height of the internal walls of the chamber.

17. (Original) The single die sheet of Claim 10, wherein the expanded carrier is approximately $15\frac{1}{2}$ inches long, 9 inches wide, approximately $2\frac{1}{8}$ inches high as determined by the height of the external walls of the chamber, and includes the central chamber having a length of approximately $8\frac{5}{8}$ inches, a width of approximately $6\frac{1}{2}$ inches, and a height of approximately 2 inches as determined by the height of the internal walls of the chamber.

18. (Currently Amended) A multi-use carrier comprising:

a collapsed carrier substantially folded into approximately three layers, the collapsed carrier made from a plurality of nonflexible panels, the collapsed carrier including:

a handle;

a first plurality of hinges connecting the nonflexible panels;

a bottom having a plurality of slots;

a plurality of exterior walls;

a first plurality of interior walls;

a second plurality of interior walls, the second plurality of interior walls having tabs and a second plurality of hinges; and

a plurality of vessel apertures,

such that a first pivoting action applied to the first plurality of hinges followed by a second pivoting action applied to the second plurality of hinges pivots the interior walls and inserts the tabs into the slots and transforms the collapsed carrier into an expanded carrier wherein the handle spans across ~~the~~ a central chamber and the central chamber is surrounded by the plurality of vessel apertures.

19. (Currently Amended) The multi-use carrier of Claim 18, wherein the nonflexible panels are made from metals, woods, plastics, fiberglass, hard pressed fiber papers and any combination of metals, woods, plastics, fiberglass and hard pressed fiber papers.

20. (Currently Amended) The multi-use carrier of Claim 19, wherein the surfaces of the nonflexible panels are configured for receiving a plurality of printed messages and images concerning food, beverage, gardening, janitorial, construction, microbiological, chemical, nuclear, business promotion, and recreational board game subject matters.

REMARKS

In an Office Action dated February 17, 2005, Claims 1, 3-5, 7-8, 10, 12, and 18 were rejected under 35 U.S.C. §112. In addition, Claims 1-3, 6-12, 14-15, 18, and 20 were rejected under 35 U.S.C. §102 as being anticipated by Maroszek (U.S. Patent No. 5,052,552) and Claims 1-3, 6-12, 14-18, and 20 were rejected under 35 U.S.C. §103 as being unpatentable over Maroszek (U.S. Patent No. 5,052,552). The Examiner also indicated a previous election of species I, Claims 1-20. Applicant hereby respectfully traverses the rejections.

RESTRICTION REQUIREMENT

In the Office Action, the Examiner indicated a provisional election was made without traverse to prosecute the invention of species I, Claims 1-20. Applicant hereby confirms that election.

REJECTION OF CLAIMS 1, 3-5, 7-8, 10, 12, AND 18 UNDER 35 U.S.C. §112

In the Office Action, the Examiner indicated that Claims 1, 3-5, 7-8, 10, 12, and 18 were inconsistent with previous terminology or lacked antecedent basis and therefore indefinite. Claims 1, 3-5, 7-8, 10, 12, and 18 have been amended to overcome this rejection. Applicant hereby submits that currently amended Claims 1, 3-5, 7-8, 10, 12, and 18 are now in condition for allowance.

REJECTION OF CLAIMS 1-3, 6-12, 14-15, 18, AND 20 UNDER 35 U.S.C. §102

Claims 1-3, 6-12, 14-15, 18, and 20 stand rejected under 35 U.S.C. §102 as being anticipated by Maroszek (U.S. Patent 5,052,552). Maroszek discloses a carton structure erectable by folding from a substantially flat blank, including two side panels, a bottom panel, two top panels, a center divider panel and two end panels, each extending from the bottom panel.

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Each end panel has slot means for engaging the center divider panel when the carton is erected.
(Abstract.) Applicant hereby traverses the rejection.

Maroszek fails to disclose, teach, or fairly suggest a multi-use carrier wherein a second pivoting action engages a plurality of tabs with a plurality of slots to form a central chamber spanned by a handle and surrounded by a plurality of vessel apertures. Further, Maroszek fails to disclose a central chamber surrounded by plurality of sub-chambers, each sub-chamber housing or itself constituting at least one aperture designed for specific toting tasks (page 4, lines 11-12; See also Fig. 5). Maroszek also fails to provide a central chamber having surfaces to receive printed informational messages and images (page 17, lines 24-26).

Therefore, Applicant submits that Maroszek fails to teach or suggest a multi-use carrier as disclosed by the Applicant. Thus, Claims 1, 10, and 18 are allowable over the cited reference. Because Claims 2-3, 6-9, 11-12, 14-15, and 20 depend upon allowable independent Claims 1, 10, and 18, they are allowable for the same reasons that make their corresponding independent claims allowable.

REJECTION OF CLAIMS 1-3, 6-12, 14-18, AND 20 UNDER 35 U.S.C. §103

Claims 1-3, 6-12, 14-18, and 20 stand rejected under 35 U.S.C. §103 as being unpatentable over Maroszek with those differences not met exactly by Maroszek held to be inherent or within the realm of common knowledge in the art. Applicant hereby traverses the rejection.

Applicant submits that there is no motivation or teaching in Maroszek to provide for the central chamber feature of Applicant's disclosure. Further, for purposes of argument only, if Maroszek did disclose the central chamber unit, it would make the inventive aspect of Maroszek unsatisfactory for its intended purpose. Specifically, Maroszek discloses a central divider panel (Figs. 1-5) comprising an upper portion 40 and a lower portion 32 located between bottom panel 26 and top panels 28 and 30 (See also Figs. 3 and 4). The inside surface of first and second

upper portions 36 and 40 are bonded together to form a single unit (column 2; lines 53-66). Maroszek leaves no room in its carrier to form a central chamber unit surrounded by a plurality of vessel apertures. Further, Maroszek does not disclose, teach or fairly suggest reason to provide for the central chamber in view of its central divider panel as illustrated by Figs. 1-5.

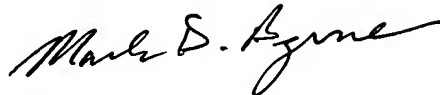
Therefore, Applicant submits that independent Claims 1, 10, and 18 are allowable over the cited reference. Because Claims 2-3, 6-9, 11-12, 14-17, and 20 depend upon allowable independent Claims 1, 10, and 18, they are allowable for the same reasons that make their corresponding independent claims allowable.

CONCLUSION

Applicant respectfully submits that all of the claims are now in condition for allowance over the cited reference. Accordingly, Applicant requests withdrawal of the rejections, allowance and early passage through issuance. If Examiner has any questions regarding this application, the Examiner is invited to contact the Applicant's agent listed below.

Respectfully submitted,

BLACK LOWE & GRAHAM^{PLLC}

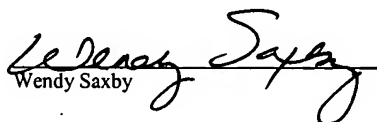


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